



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

FISH & RICHARDSON P.C.  
PO BOX 1022  
MINNEAPOLIS MN 55440-1022

**COPY MAILED**

**MAY 22 2009**

**OFFICE OF PETITIONS**

Applicant: Pan, et al.  
Appl. No.: 10/561,014  
International Filing Date: June 2, 2004  
Title: ISOFORMS OF BRAIN NATRIURETIC PEPTIDE  
Attorney Docket: 07039-409US1  
Pub. No.: US 2007/0281887 A1  
Pub. Date: December 6, 2007

This is a decision on the petition under 37 CFR 1.182 received on January 5, 2009, for the above-identified application because the front page of the application publication published without the name of one of the inventors, which is being treated as a request for a corrected patent application publication under 37 CFR 1.221(b),

The petition under 37 CFR 1.182 is DISMISSED.

The request for corrected publication is DISMISSED.

Applicant essentially requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein one of the inventors "Robert D. Simari" was not included on the front page.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable.**" A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.<sup>1</sup>

The petition under 37 CFR 1.182 is being treated as a request under 1.221(b), since there is a rule on point.

---

<sup>1</sup>Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The request for corrected publication, received on January 5, 2009, was not timely filed under 37 CFR 1.221(b).

Moreover, while the omission of an inventor's name on the front page of the publication may be an Office error, it is a not material Office error under 37 CFR 1.221. The omission does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication may be found on the link below:

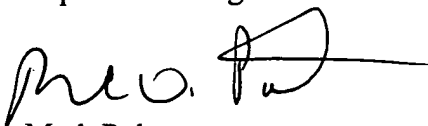
<http://www.uspto.gov/ebc/portal/tutorials.htm>

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Va. 22313-1450

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The Petition fee \$400 for the petition under 37 CFR 1.182 is not required for this request under 37 CFR 1.221 and the fee has been refunded to petitioner's Deposit Account (06-1050).

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Shuchong Pan et al.                      Art Unit : 1649  
Serial No. : 10/561,014                              Examiner : Chang Yu Wang  
Filed : June 6, 2006                                  Conf. No. : 9426  
Title : ISOFORMS OF BRAIN NATRIURETIC PEPTIDE

**Mail Stop Petitions Branch**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.182**

Inventors Shuchong Pan and Robert D. Simari were listed on the Declaration by Inventors and the Filing Receipt (copies attached). Applicants note, however, that when the above-referenced application published on December 6, 2007, inventor Robert D. Simari was not listed as an inventor on the face of the published application.

Please apply the required fee of \$400 and any other charges or credits to deposit account no. 06-1050.

Respectfully submitted,

Date: January 5, 2009/

/Elizabeth N. Kaytor/  
Elizabeth N. Kaytor, Ph.D.  
Reg. No. 53,103

Fish & Richardson P.C.  
60 South Sixth Street  
Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070  
Facsimile: (612) 288-9696

60534519.doc

Adjustment date: 05/21/2009 CKHLUK  
01705/2009 INTFSW 00004023 061050 10561014  
01 FC:1462 400.00 CR

**CERTIFICATE OF MAILING BY EFS-WEB FILING**

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: January 5, 2009

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>5/20/09</u>		2 Serial/Patent # <u>10/561,014</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
	Amendment			\$							
	Extension of Time			\$							
	Notice of Appeal/Appeal			\$							
	Petition			\$							
	Issue			\$							
	Cert of Correction/Terminal Disc.			\$							
	Maintenance			\$							
	Assignment			\$							
<input checked="" type="checkbox"/>	Other	1462		\$ 400							
		7 TOTAL AMOUNT OF REFUND		\$ 400							
		8 TO BE REFUNDED BY:									
10 REASON:		Treasury Check									
	Overpayment	Credit Deposit A/C #:									
	<del>Duplicate Payment</del>	9 <table border="1" style="display: inline-table; text-align: center; width: 150px;"><tr><td>0</td><td>6</td><td>--</td><td>1</td><td>0</td><td>5</td><td>0</td></tr></table>			0	6	--	1	0	5	0
0	6	--	1	0	5	0					
<input checked="" type="checkbox"/>	No Fee Due (Explanation):										
No Fee Due											
11 REFUND REQUESTED BY: <u>mark pld</u>											
TYPED/PRINTED NAME: <u>Mark Polata</u>			TITLE: <u>Senior Legal Advisor</u>								
SIGNATURE: <u>[Signature]</u>			PHONE: <u>2-7709</u>								
OFFICE: <u>OPLA</u>											
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****											
APPROVED: <u>[Signature]</u>			DATE: <u>5/21/09</u>								

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*